

Note: Pursuant to 310 CMR 40.1074(5), upon transfer of any interest in or a right to use the property or a portion thereof that is subject to this Notice of Activity and Use Limitation, the Notice of Activity and Use Limitation shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer. Within 30 days of so incorporating the Notice of Activity and Use Limitation in a deed that is recorded or registered, a copy of such deed shall be submitted to the Department of Environmental Protection.

NOTICE OF ACTIVITY AND USE LIMITATION

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Framingham High School, 115 A Street, Framingham, Massachusetts 01701  
DEP Release Tracking No. RTN-3-0002603

This Notice of Activity and Use Limitation ("Notice") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2022, by the City of Framingham, 150 Concord Street, Framingham, Massachusetts, together with his/her/its/their successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, the City of Framingham, is the owner in fee simple of those certain parcels of land located in Framingham, Middlesex County, Massachusetts, with the buildings and improvements thereon, pursuant to Certificate of Title No. 80334 and Certificate of Title No. 95150, issued by the Land Registration Office of the Middlesex (South) Registry District;

WHEREAS, said parcels of land, which are more particularly bounded and described in **Exhibit A**, attached hereto and made a part hereof ("Property") are subject to this Notice of Activity and Use Limitation. The Property is shown on plans recorded on Land Court Plans No. 3856S and 3856Z;

WHEREAS, a portion of the Property ("Portion of the Property") is subject to this Notice of Activity and Use Limitation. The Portion of the Property is more particularly bounded and described in **Exhibit A-1**, attached hereto and made a part hereof. The Portion of the Property is shown on a sketch plan as **Exhibit A-2**, "Framingham High School Disposal Site Boundary and AUL Limit Sketch Plan" by ALPHA Survey Group and dated 5/21/2019, attached hereto and filed herewith for registration;

WHEREAS, the Portion of the Property comprises part of a disposal site as the result of a release of oil and/or hazardous material. **Exhibit B**, "Activity Use Limitation Plan, Framingham High School, 115 A Street, Framingham Massachusetts" is a sketch plan showing the relationship of the Portion of the Property subject to this Notice of Activity and Use Limitation to the boundaries of said disposal site existing within the limits of the Property and to

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the extent such boundaries have been established. **Exhibit B** is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for the Disposal Site in accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP"). Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material in soil and/or groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Portion of the Property. A description of the basis for such restrictions, and the oil and/or hazardous material release event(s) or site history that resulted in the contaminated media subject to the Notice of Activity and Use Limitation is attached hereto as **Exhibit C** and made a part hereof;

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in this Notice of Activity and Use Limitation are as follows:

1. Activities and Uses Consistent with Maintaining No Significant Risk Conditions. The following Activities and Uses are consistent with maintaining a Permanent Solution and a condition of No Significant Risk and, as such, may occur on the Portion of the Property pursuant to 310 CMR 40.0000:

- (i) Use of the portion of the building in the Activity and Use Limitation (AUL) area in its current configuration as a school;
- (ii) All activities and uses, including, but not limited to and pedestrian and/or vehicle traffic, above-grade building construction, utility work, and maintenance of surfaces such as pavement that do not result in contact with, disturbance of, or re-location of soil or groundwater located beneath the pavement at exterior grade or underneath the building in the AUL area;
- (iii) Emergency utility work that requires soil excavation and/or dewatering in the AUL area; however, the soil and/or groundwater must be managed and treated to the extent feasible in accordance with existing regulations;
- (iv) Non-emergency underground utility and/or construction activities including, but not limited to, excavations which are likely to disturb petroleum contaminated soil/groundwater in the designated AUL area, provided that such activities are conducted in accordance with Obligations/Conditions listed in Paragraph 3, including preparing and following a Soil and/or Groundwater Management Plan;
- (v) Such other activities or uses which, in the Opinion of a Licensed Site Professional, shall present no greater risk of harm to health, safety, public welfare or the environment than the activities and uses set forth in this Paragraph; and

- (vi) Such other activities and uses not identified in Paragraph 2 as being Activities and Uses Inconsistent with maintaining No Significant Risk.

2. Activities and Uses Inconsistent with Maintaining No Significant Risk. The following Activities and Uses are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk pursuant to 310 CMR 40.0000, and, as such, may not occur on the Portion of the Property:

- (i) Activities (except emergency utility work) that disturb soil and/or groundwater at depths below the pavement at exterior grade or below the building in the AUL area; or which result in the removal and relocation of soil or groundwater from the AUL area to locations outside the AUL area unless and until the work is performed in accordance with the “Obligations and Conditions” listed in Paragraph 3 below.
- (ii) New building construction within the AUL area or changes in the Athletic Center building configuration below the concrete slab floor of the building in the AUL area unless first evaluated by a Licensed Site Professional. The proposed work is to be evaluated by a Licensed Site Professional to determine if such new construction or building changes would result in exposure of the building occupants to petroleum-contaminated soil and/or groundwater, and/or would result in migration of petroleum vapors into the indoor air of the building; and if so, whether or not a condition of “No Significant Risk” would be maintained.

3. Obligations and Conditions. The following obligations and/or conditions are necessary and shall be undertaken and/or maintained at the Portion of the Property to maintain a Permanent Solution and a condition of No Significant Risk:

- (i) Evaluation of Subsurface Disturbances: Prior to the disturbance of soil and/or groundwater in the AUL area below the ground surface outside the building or underneath the building, a Licensed Site Professional must be consulted to identify management procedures needed to protect public health, safety and the environment during the work. Prior evaluation of emergency subsurface utility work by a Licensed Site Professional is not required.
- (ii) Evaluation of Construction: Prior to any new building construction or changes in the Athletic Center building configuration below grade in the AUL area, a Licensed Site Professional must be consulted to determine if the proposed changes would maintain a condition of “No Significant Risk” as defined by the MCP regulations. Any new building in the AUL area shall be considered a “change in use” subject to the provisions of the MCP regulations at 310 CMR 40.1080.

- (iii) Utilities: New utilities installed in the subsurface and within the AUL area shall be evaluated by a Licensed Site Professional to ensure that they do not create a pathway for the petroleum remaining in the ground to migrate further in the environment.
  - (iv) Soil and/or Groundwater Management Plan: a Licensed Site Professional must prepare a Soil and/or Groundwater Management Plan prior to any activity that requires managing or disturbing soil and/or groundwater in the subsurface in the AUL area. The Plan shall detail practices for the appropriate management of petroleum-impacted soil and/or groundwater during activities such as excavation or construction. The Plan shall include monitoring procedures, engineering controls, and handling, storage, treatment, and disposal procedures for contaminated soil and/or groundwater. Procedures for environmental monitoring to protect building occupants, people who live or work near the area, and/or environmental receptors must be included in the plans.
  - (v) Health and Safety Plan: A Certified Industrial Hygienist or other individual appropriately trained and/or experienced in the development of Health and Safety Plans shall prepare a Health and Safety Plan prior to any disturbance and/or excavation of petroleum-impacted soil and/or groundwater in the AUL area. The Health and Safety Plan shall describe the location of the petroleum-impacted soil and/or groundwater, and specifically identify the types of personal protective equipment, monitoring devices, and/or engineering controls necessary to ensure that workers are not exposed to oil and/or hazardous material through contact, ingestion, and/or inhalation of oil and/or hazardous material.
4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Portion of the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by a Licensed Site Professional who shall render an Opinion, in accordance with 310 CMR 40.1080, as to whether the proposed changes are inconsistent with maintaining a Permanent Solution and a condition of No Significant Risk. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.
5. Violation of a Permanent or Temporary Solution. The activities, uses and/or exposures upon which this Notice is based shall not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by a Licensed Site Professional in accordance with 310 CMR

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40.1080, and without additional response actions, if necessary, to maintain a condition of No Significant Risk.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by a Licensed Site Professional in accordance with 310 CMR 40.1080, the owner or operator of the Portion of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed in accordance with 310 CMR 40.1074(5).

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned Licensed Site Professional, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS the execution hereof under seal this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Charles J. Sisitsky  
Mayor  
City of Framingham

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss  
\_\_\_\_\_, 2022

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared Charles J. Sisitsky, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of, and in his capacity as Mayor for the City of Framingham.

\_\_\_\_\_  
(Official signature and seal of notary)

Form 1075:

The undersigned Licensed Site Professional hereby certifies that in her Opinion this Notice of Activity and Use Limitation is consistent with a Permanent Solution and maintaining a condition of No Significant Risk.

Date: \_\_\_\_\_

\_\_\_\_\_  
Carol de Groot Bois, LSP #3965

LSP Seal

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, SS  
\_\_\_\_\_, 2022

On this \_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned notary public, personally appeared Carol de Groot Bois, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as Licensed Site Professional of-Record.

\_\_\_\_\_ (Official signature and seal of notary)

Upon recording, return to:

City of Framingham c/o  
Christopher J. Petrini, City  
Solicitor  
Petrini & Associates, P.C.  
572 Union Avenue  
Framingham, MA 01702

## **Exhibit A**

### **Legal Description of Parcel of Land Containing Area Subject to AUL**

**EXHIBIT A**  
**PROPERTIES SUBJECT TO AUL**

**LOT 16, LAND COURT PLAN 3856S**

The parcel of land consisting of Lot 16 as shown on Land Court Plan 3856S, with Certificate No. 80334 and owned by the Inhabitants of the Town of Framingham, in the County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

Easterly by A Street, sixty feet;  
Southwesterly by a curving line, thirty-one and 42/100 feet,  
Southerly, three hundred seventy-four and 34/100 feet,  
Easterly by a curving line, thirty-five and 29/100 feet,  
Southeasterly, five hundred twenty-eight and 78/100 feet,  
Southwesterly, eight hundred ninety-four and 40/100 feet, and  
Northerly, five hundred fifty-eight and 66/100 feet, part being a line in Mill Pond as shown on plan hereinafter mentioned, all by land now or formerly of Roxbury Carpet Company;  
Northeasterly by said Roxbury Carpet Company land and by lot E<sup>8</sup> and said plan, six hundred forty-five and 10/100 feet; and  
Northerly by said lot E<sup>8</sup>, four hundred and seventy feet.

Said parcel is shown as lot 16 on said plan.

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South District of Middlesex County in Registration Book 531, Page 184, with Certificate 80334.

The above-described land is subject to an Order and Taking by the Town of Framingham for laying out A Street, Document 151545.

**LOT 36, LAND COURT PLAN 3856Z**

The parcel of land consisting of Lot 36 as shown on Land Court Plan 3856Z, with Certificate No. 95150 and owned by the Inhabitants of the Town of Framingham, in the County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

Being lot 36, all the boundaries of which, except the lines in Sudbury River, are determined by the Court to be located as shown on a subdivision plan (3856Z), as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South Registry District of Middlesex County, in Registration Book 605, Page 200, with Certificate 95150, together with the fee and soil in A street to the middle line thereof.



## **Exhibit A-1**

### **Legal Description of Area Subject to AUL**

**EXHIBIT A-1**  
**PORTION OF PROPERTIES SUBJECT TO AUL**

**DESCRIPTION OF “AUL A” AREA (ON LOT 16, LAND COURT PLAN 3856S)**

An area of land labeled as “AUL A” on a plan cited below, located on a portion of Lot 16 as shown on Land Court Plan 3856S, described in Certificate No. 80334 and owned by the Inhabitants of the Town of Framingham, in the County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a southwesterly corner of Lot 16; thence N 32°33'49" W by Lot 36 (LCP 3856Z) a distance of Three Hundred Eighty-Nine and Eighty-Two Hundredths (389.82) feet to the southwesterly corner of said AUL A, and the True Point of Beginning; thence continuing

N 32°33'49" W    by Lot 36 a distance of Sixty-Seven and Fifty-Eight Hundredths (67.58) feet to a point; thence

N 58°02'33" E    a distance of Twenty-Six and Zero Hundredths (26.00) feet to a point in the building; thence

S 31°57'27" E    a distance of Sixty-Seven and Fifty-Seven Hundredths (67.57) feet; to a point in the building; thence

S 58°02'33" W    a distance of Twenty-Five and Twenty-Nine Hundredths (25.29) feet to a point on the line between Lots 16 and 36, said point being the True Point of Beginning.

The above described “AUL A” area contains 1733 ± SF and is more particularly shown on a plan entitled: “Activity Use Limitation Plan, Framingham High School, 115 A Street, Framingham, MA”, prepared for Fuss & O’Neill, Inc., by ALPHA Survey Group, LLC., dated May 20, 2019, revised May 21, 2019.

**DESCRIPTION OF “AUL B” AREA (ON LOT 36, LAND COURT PLAN 3856Z)**

An area of land labeled as “AUL B” on a plan cited below, located on a portion of Lot 36 as shown on Land Court Plan 3856Z, described in Certificate No. 95150 and owned by the Inhabitants of the Town of Framingham, in the County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

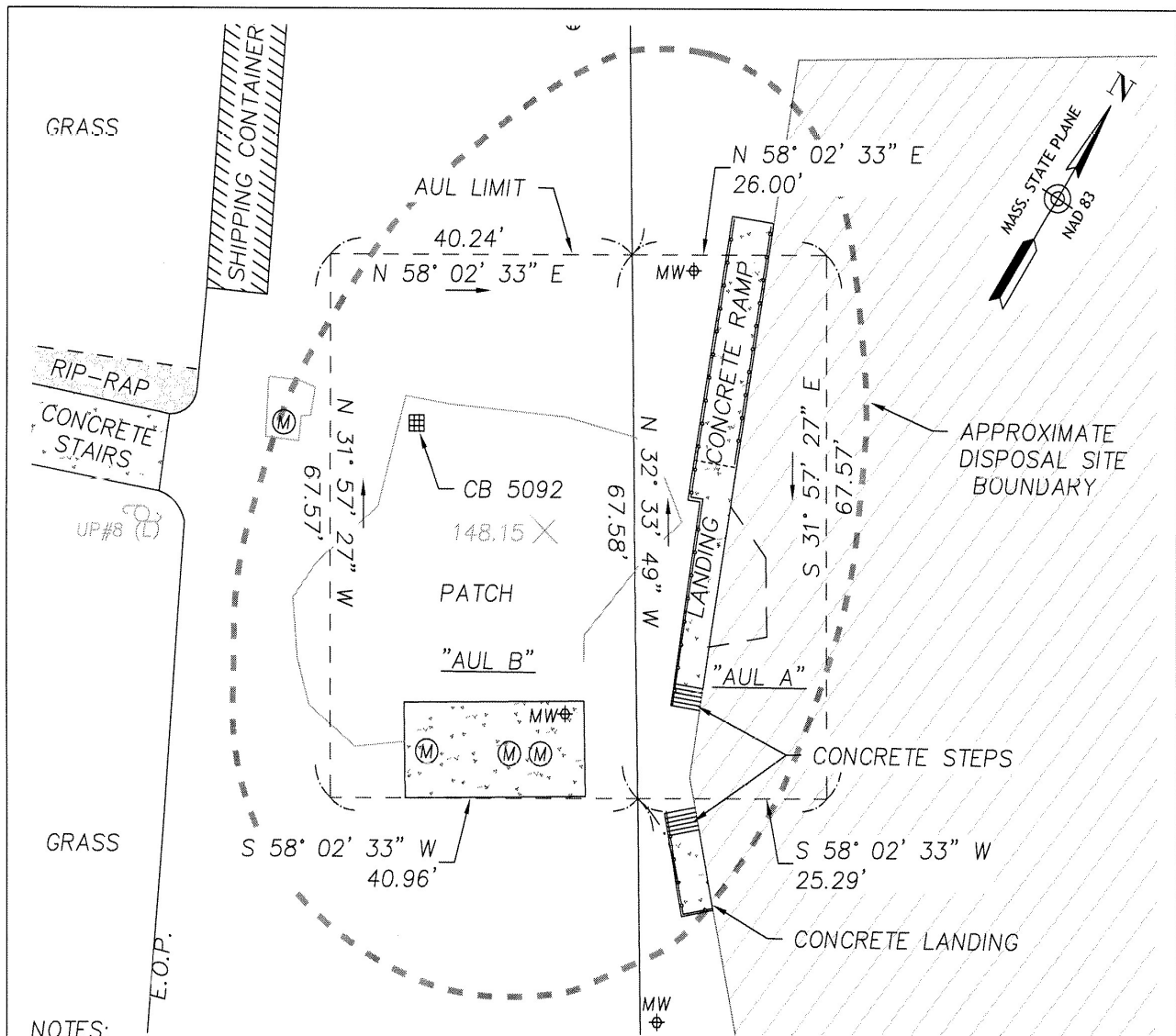
Beginning at a southwesterly corner of Lot 16; thence N 32°33'49" W by Lot 16 (LCP 3856S) a distance of Three Hundred Eighty-Nine and Eighty-Two Hundredths (389.82) feet to the southeasterly corner of said AUL B, and the True Point of Beginning; thence

- S 58°02'33" W a distance of Forty and Ninety-Six Hundredths (40.96) feet to a point in Lot 36; thence
- N 31°57'27" E in Lot 36 a distance of Sixty-Seven and Fifty-Seven Hundredths (67.57) feet to a point; thence
- N 58°02'33" E a distance of Forty and Twenty-Four Hundredths (40.24) feet to a point on the line between Lots 16 and 36; thence
- S 32°33'49" E along said Lot line a distance of Sixty-Seven and Fifty-Eight Hundredths (67.58) feet; to a point on the line between Lots 16 and 36, said point being the True Point of Beginning.

The above described "AUL B" area contains 2734 ± SF and is more particularly shown on a plan entitled: "Activity Use Limitation Plan, Framingham High School, 115 A Street, Framingham, MA", prepared for Fuss & O'Neill, Inc., by ALPHA Survey Group, LLC., dated May 20, 2019, revised May 21, 2019.

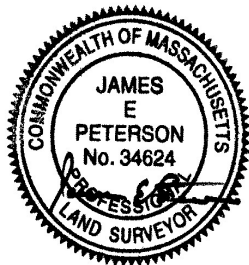
**Exhibit A-2**

**Plan of Area Subject to AUL  
(Registered Land)**



NOTES:

1. THE PURPOSE OF THIS PLAN IS TO DEPICT THE RELATIONSHIP BETWEEN THE DISPOSAL SITE BOUNDARY AND THE ACTIVITY USE LIMITATION BOUNDARY. THERE WAS NO ENTRY INTO, OR SURVEY PERFORMED WITHIN, THE BUILDING BY ALPHA AT THE TIME OF THIS SURVEY.



I CERTIFY THE LOCATIONS ON THIS PLAN RESULT FROM AN ACTUAL SURVEY MADE ON THE GROUND.

*James E. Peterson*

REGISTERED PROFESSIONAL LAND SURVEYOR  
FOR ALPHA SURVEY GROUP, LLC

**5/21/19**

DATE

PREPARED BY ALPHA SURVEY GROUP, LLC 695 WAREHAM STREET MIDDLEBOROUGH, MA 02346		PREPARED FOR FUSS & O'NEILL, INC. 108 MYRTLE STREET, SUITE 502 QUINCY, MA 02171		FRAMINGHAM HIGH SCHOOL DISPOSAL SITE BOUNDARY & AUL LIMIT SKETCH PLAN	JOB. NO. <b>19108</b>
DATE 5/21/2019	SCALE 1"=20'	DRAWN GCA	FIELD JDS/RE		SHEET NO. <b>1 of 1</b>
		CHECKED JEP			DWG. NO. <b>19108-SP</b>

## **Exhibit B**

### **Sketch with AUL Boundaries in Relation to the Disposal Site**



## **Exhibit C**

**Activity and Use Limitation Narrative  
City of Framingham  
115 “A” Street, Framingham, MA  
MassDEP RTN 3-0002603**



## EXHIBIT C

### ACTIVITY AND USE LIMITATION NARRATIVE

#### Site Description

The Notice of Activity and Use Limitation (AUL) was prepared pursuant to the Massachusetts Contingency Plan regulations at 310 CMR 40.1074(1)(b) for a release of oil on portions of two parcels of land located at 115 A Street, Framingham, Middlesex County, Massachusetts. The City of Framingham (City) Framingham High School campus is located on these parcels, which are identified by the City's Tax Assessor by Tax ID 060-21-2247 and 060-11-9109. The portions of these two parcels together are referred to as "the site" for the purposes of this AUL narrative, which accompanies the Notice of AUL documentation and forms. The site is located on the western side of the Athletic Center building's "J" wing of the school.

#### Release History

The Massachusetts Department of Environmental Protection (MassDEP) identifies this site as a Disposal Site where a release of oil has occurred, using Release Tracking Number (RTN) 3-0002603. This historical release of heating oil was observed in 1988 from two of three former 15,000-gallon heating oil underground storage tanks. These two tanks have since been removed, and were located west of the Athletic Center building. A third underground tank was filled with concrete and decommissioned in place, in accordance with Fire Department regulations. As of 2022, one active 3,000-gallon diesel fuel tank remains in the area for use with an emergency generator.

The historical leak occurred sometime between the underground tanks' installation date in 1961 and when the release was discovered in 1988 during a tank removal and replacement project. The tanks were originally used to store a heavy heating oil (No. 6) and were converted to No. 4 oil in the early 1980s. Therefore, the oil released was No. 6 oil, No. 4 oil, or a mixture of the two types of oil. The amount of oil released is unknown. Response actions conducted at the site have included the following:

- In 1988, approximately 1,000 cubic yards of clean and petroleum-impacted soil were removed and treated by an asphalt batching process. Petroleum-impacted groundwater was also pumped from the excavation, treated and discharged as approved by MassDEP.
- Two of the three underground tanks were removed, and the third tank was decommissioned in place, in accordance with state and local fire department requirements.

## Exhibit C – Activity and Use Limitation Narrative

- After the 1988 remediation work was completed, oil was detected in two groundwater monitoring wells near the former tank area. This remaining oil was observed in the monitoring wells as free-phase petroleum product, referred to in the regulations as nonaqueous phase liquid (NAPL), at depths between 9 and 14 feet below the ground surface.
- Additional sampling and monitoring of the subsurface soil, groundwater, and petroleum product as NAPL was conducted between 1988 and 2019. This additional data indicated that it is not feasible to remove more contaminated soil, groundwater, or petroleum product (NAPL), and that the petroleum product is stable in the environment in its current location.

At the time of filing of this Notice of AUL, oil-contaminated soil and groundwater remain in a limited area in the vicinity of the western end of Athletic Center/“J” Wing building. The area where the fuel oil was released to the subsurface covers approximately 10,890 square feet, or 0.25 acres, in a localized area underneath pavement, structures, and the nearby building. Based on the data collected, the oil-contaminated soil, groundwater, and petroleum product (NAPL) are located primarily at depths between 9 and 14 feet below grade, approximately at the groundwater table. Additional removal of the oil in the ground is not feasible due to the nearby loading docks and building. The area subject to the AUL, where petroleum product (NAPL) is presumed to be located, is a smaller area within the site, covering approximately 4,467 square feet (0.1 acres). The area is shown in Exhibits A-2 and B; since it is located in portions of two adjoining but separate parcels, it is delineated as “AUL A” (approximately 1,733 square feet) and “AUL B” (approximately 2,734 square feet), which together comprise the entire AUL area.

### Basis for an Activity and Use Limitation (AUL)

An AUL is specifically required to support the *Permanent Solution With Conditions Statement* in accordance with state regulations (310 CMR 40.1012(2)(d)) due to the presence of the petroleum product as NAPL in the subsurface. Based on the past data collected as presented in the Permanent Solution with Conditions Report for this site by Bois Consulting Co., Inc. (2022), and submitted to MassDEP, this petroleum product is present in the subsurface and meets a condition of “No Significant Risk” to human health, safety, public welfare and the environment, and is infeasible to remediate in its current location.

This AUL is needed so that in the future if the petroleum-impacted soil and/or groundwater in the designated AUL area is disturbed or excavated, any current or future property owner conducts the necessary evaluations and takes appropriate precautions to maintain a condition of “No Significant Risk” consistent with the 2022 Permanent Solution with Conditions Report. Such precautions include, but are not limited to, having a Massachusetts Licensed Site Professional (LSP) review planned soil and/or groundwater excavations in the designated AUL area. The Obligations and Conditions in the AUL are described in the attached Form 1075, Notice of AUL.

**Exhibit D**  
**Documentation of Signatory Authority**

**Exhibit D-1**

**Vote of the Framingham City Council  
(DATE)**

**Exhibit D-2**

**Article III of the Framingham City  
Charter**

**Exhibit D-3**

**Vote of the Framingham School  
Committee  
March 30, 2022**